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Planning Commission Date: December 10, 2003

Item No.

## MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Kim Duncan

Public Hearing: Yes:   X   No:       

Notices Mailed On: 11/26/03 Published On: 11/27/03 Posted On: 11/26/03

**TITLE:** TIME EXTENSION NO. P-TE2003-7

Proposal: Request for a one time 18-month time extension for the Edsel Court Planned Unit Development (P-PUD 20002-1).

Location: 1129 & 1143 Edsel Drive and 1116 & 1124 Shirley Drive (APN: 88-03-057 to 059 & 064 to 066)

**RECOMMENDATION:** Approval to City Council

Applicant: Vicente Songcayawon, 2690 South White Road, Suite 100, San Jose, CA 95148

Property Owner: Same as applicant

Previous Action(s): Tentative Map, "S" Zone Approval, PUD 78

General Plan Designation: "Multi-Family High Density"

Present Zoning: Multiple Family Residential ("R3-S")

Existing Land Use: Four apartment buildings

Agenda Sent To: Applicant/owner

Attachments: Plans, letter from applicant dated November 20, 2003

PJ No. 2295

### BACKGROUND

On July 17, 1962, the "Milpitas Village" Tentative Map was approved, creating thirty-one (31) multi-family residential lots at the northeast quadrant of Dempsey Road and Edsel Drive. The

approved tentative map set aside a common recreational area for the benefit of the residents of the subject subdivision. On October 9, 1962, a survey map was recorded identifying a 17,354 square foot cross-shaped area designating the boundary for the recreational area and, on October 10, 1962, the Planning Commission approved an "S" Zone application for the four-unit apartment buildings surrounding the area. In recent years, the recreation area deteriorated and was used for illegal trash disposal, loitering and more serious criminal activities instead of bona fide recreation uses. On December 17, 2002, the City Council approved a Planned Unit Development application (P-PD2002-1) for the development of two (2) new tri-plex apartment units to replace the blighted open area in conjunction with the renovation of four (4) existing apartment buildings.

Planned Unit Development approvals are valid for twelve (12) months and expire if the permit has not been "used" within that one (1) year after the date of granting (Section 54.07-9). An approval is considered "used" or "exercised" if the applicant: (1) obtains a building permit and completes a foundation, or (2) dedicates any land or easement as required from the zoning action, or (3) complies with all legal requirements necessary to commence the use, or obtains an occupancy permit (Section 64.04-2).

## THE APPLICATION

The applicant is requesting an eighteen month time extension of Planned Unit Development application No. P-PD2002-1 ("Edsel Court"). The original PUD approval was granted on December 17, 2002 and is scheduled to expire December 17, 2003. At the time of the extension request, the applicant submitted a letter to the City stating that he was waiting final approval of the Certificate of Compliance and Easement Dedication (submitted to the City November 7, 2003), as well as the signing and execution of a Housing Affordability Agreement (submitted to the City November 20, 2003). The applicant submitted plans for initial building permit review on April 24, 2003 and has been working with city departments to meet requirements for building permits. However, the applicant is requesting additional time to complete recordation of Housing Affordability Agreements, Certificate of Compliance and easement dedications, effectively exercising, or "using", the Planned Unit Development approval.

The City Council will be reviewing this request at their meeting of December 16, 2003. With approval of this requested time extension, the new and final expiration date for the Edsel Court Planned Unit Development would be June 17, 2005.

## RECOMMENDATION

Recommend to the City Council approval of a one-time eighteen month time extension for the Edsel Court Planned Unit Development, P-PUD2002-1.

## ORIGINAL FINDINGS

1. The project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) inasmuch as it meets the definition of Class 3 Exemption (*i.e. new construction of small structures—specifically, construction of no more than six multi-family units*).

2. The project is a Planned Unit Development that complies with the relevant sections of the City's General Plan and Zoning Ordinance.
3. The proposed new apartments have an attractive design using appropriate colors and materials that complement the surrounding neighborhood.
4. The proposed Planned Unit Development will result in a public benefit of eliminating a blighted area which has been the site of various unlawful activities.

#### APPROVED SPECIAL CONDITIONS

1. This approval is for the development of two 3-unit apartment buildings and the renovations to existing apartment buildings located on 1129 & 1143 Edsel Drive and 1116 & 1124 Shirley Drive (APN 88-03-057 to 059 & 064 to 066) in accordance with the plans titled "Edsel Court Apartments" (prepared by Studio S Squared, with cover sheet dated September 30, 2002 [Revision 1] and latest revisions dated October 21, 2002) and as modified by these Conditions of Approval. (P)
2. The demolition of existing carports, paving and other structures shall be in accordance with City policies regarding recycling of demolition materials. (P)
3. Prior to issuance of a building permit for this project, the applicant shall submit for review and approval by the Planning Commission Subcommittee detailed plans/descriptions for the following:
  - a) The new carports and trash enclosures.
  - b) The wood "good neighbor" fence and the low stone walls at the project driveways. The wood fence shall be limited to six feet in height unless written approval for a higher fence (up to eight ft.) from the adjoining property owners is received.
  - c) The colored pavers at the driveway entrances and central parking court. (P)
4. Prior to issuance of a building permit for this project, a plan for on-site storm water pollution control and erosion control measures—including a maintenance program for these measures—shall be submitted to Planning staff for approval. (P)
5. If at the time of application for permit there is a project job account past due balance to the City for recovery of review fees, review of permit will not be initiated until the balance is paid in full. (P)
6. Prior to recordation of the project parcel map, the applicants shall pay the applicable park dedication in lieu fee per Milpitas Municipal Code Section IX-1-9. However, if at least four (4) of the subject apartments (new or existing) are made available at a cost affordable to low income households and are maintained at that affordability standard for a period of no less than twenty (20) years, the subject shall be exempt from the park dedication fee. To qualify for the park fee exemption, the following must be accomplished by the applicants:
  - Provide documentation to the approval of the City Attorney that at least four (4) of the subject apartments (new or existing) shall be available at a cost affordable to low or very low income households. Income eligibility for the affordable units shall be determined pursuant to the California Health and Safety Code Sections 50079.5, 50093

and 50105 which provide that "low" limits established by the U.S. Department of Housing and Urban Development (HUD) are the state limits for that income category.

- Enter into Restriction Agreements with the City of Milpitas which outline the provisions for maintaining the long term affordability of the proposed affordable units. The Restriction Agreements shall be approved to form by the Milpitas City Attorney's Office, executed by the City Manager and recorded with the County of Santa Clara. The Restriction Agreements shall require that the long term affordability of the rental units shall remain in effect for a period of no less than twenty (20) years. Any changes to this requirement are subject to review and approval by the Milpitas City Council.

The established affordable rents for the apartment units shall be pursuant to income eligibility provided by the California Health and Safety Code Sections 50079.5, 50093 and 50105 which provide that "low" or "very low" limits established by the HUD are the state limits for that income category. The final affordable rents established for the apartment units shall not exceed the maximum allowable rents for low households as defined in the above code sections. Said rents shall be approved for consistency with the definitions by the Milpitas Housing Division staff. (H) (P)

7. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
8. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
9. At the time of the Building plan-check submittal, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall include all areas that will be effected by this development, including but not limited to the 4 adjacent four-plexes. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to any building permit issuance. (E)
10. Prior to any building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along Edsel and Shirley Drive, including but not limited to curb and gutter, sidewalk, fire hydrants, storm drain, sewer and water services. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (*AutoCAD format is preferred*) upon completion of improvements. The developer shall also execute a secured

public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor and materials. (E)

11. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, water connection fee, sewer connection fee, plan check and inspection deposit. These fees are collected as part of the secured public improvement agreement. (E)
12. Prior to any building permit issuance, the developer shall dedicate adequate right of way for pedestrian purposes crossing the driveways. (E)
13. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping and signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (E)
14. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements. (E)
15. Based on the information submitted and the City records, this parcel does not appear to be a legal parcel of record. Before building permit issuance, the developer shall process and record a parcel map, or record a Certificate of Compliance with the Santa Clara County Recorder's Office. (E)
16. The developer shall underground all existing wires and remove utility pole number 1, as shown on the Engineering Services Exhibit "S", dated 11/4/02, with the exception of transmission lines supported by metal poles carrying voltages of 37.5KV or more do not have to be undergrounded. All proposed utilities within the development shall also be undergrounded. (E)
17. The developer shall dedicate on the final map necessary public service utility easements, and easements for water and sanitary sewer purposes, as shown on the Engineering Services Exhibit "S" dated, 11/4/2002. (E)
18. The developer shall record a reciprocal easement and maintenance agreement concurrent with the recordation of the parcel map. The reciprocal agreement shall provide for the use of lands and maintenance of all private utility facilities including but not limited to, drainage, trash enclosures, landscaping, walls, private drive and other common area facilities. (E)
19. The proposed trash enclosure shall be designed per City's Development Guidelines for Solid Waste Services. City review/approval is required prior to construction of the trash enclosure. The proposed private drive shall be designed to withstand the weight of collection vehicles. (E)
20. Prior to occupancy permit issuance, the applicant shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI:
  - a) Maintain an adequate level of service for trash collection.
  - b) Maintain an adequate level of recycling services.

After the applicant has started its business, the solid waste service shall be evaluated by BFI commercial representative to determine the adequacy of the service level. If it is found to be

inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. (E)

21. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)

22. The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (*occupancy*) by the Building Division:

a) Water Service Agreement(s) for water meter(s) and detector check(s).

b) Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)

23. Prior to building permit issuance, the project plans shall incorporate exterior site lighting to the approval of Planning and Engineering Division staff. The intent is to provide illumination for safety reasons, for the common vehicular access, parking and trash enclosure areas along the middle of the project site. (CC)

(P) = Planning Division; (E) = Engineering Division; (H) = Housing Division; (CC) = City Council

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## Edsel Court Apartments

2690 S. White Rd., Ste. 100, San Jose, CA 95148 • tel. (408) 223-3330 • fax (408) 230-2506

November 20, 2003

THE CITY OF MILPITAS, CA  
455 E. Calaveras Blvd.  
Milpitas, CA 95035

RE: Request for Extension of PUD Approval: Edsel Court Apartments

Dear Sirs:

The "Edsel Court Apartments", our joint venture partnership, has been granted approval for the planned unit development of its lots at 1133 and 1139 Edsel Drive, Milpitas, as well as the surrounding four lots/apartment buildings adjacent to the lots.

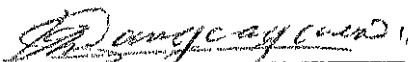
This PUD approval, however, is due to expire on December 17, 2003. And right now, we are waiting for the final approval of the Certificate of Compliance and Easement Dedication (application and other documents submitted on November 7, 2003), as well as the signing and due execution on the part of the Officials concerned of the City of Milpitas of herein parties' REGULATORY AGREEMENT (Housing Affordability Agreement), the final document of which is submitted November 20, 2003, and of course, the Grading and Building Permits (final drawings and other documents submitted for third (3<sup>rd</sup>) plan check).

By reason of the foregoing, as well as our valid concerns regarding some future plan checking that the City Plan Checkers may still perform, we greatly fear that all of the foregoing may not be done and accomplished on or before the expiry date of December 17, 2003.

Hence, this formal request for extension of the approval of PUD P-PD 2002-1 of Edsel Court Apartments. Your most favorable consideration and approval of this request is highly and greatly appreciated.

Thank you so much.

Sincerely yours,  
EDELSE COURT APARTMENTS

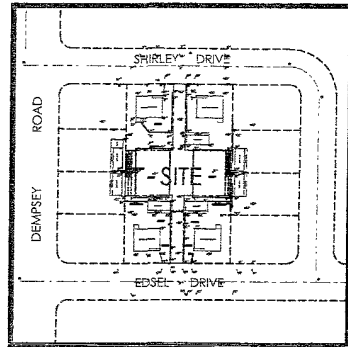
By: 

VICENTE M. SONGCAYAWON  
Partner/Project Manager

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# EDSEL COURT APARTMENTS

1143 EDSEL DRIVE  
MILPITAS, CALIFORNIA



VICINITY MAP

**OWNER**  
Edsel Court Apartments, LLC  
2690 South White Road, Ste 100  
San Jose, CA 95148  
Attn: Mr. Vince Songcayawan

ph: 408 223 3350  
fx: 408 238 6051

**CIVIL ENGINEER**  
LTI Civil Engineers, Inc.  
1840 E Camino Real  
Sunnyvale, CA 94010  
Attn: David Lutzkaga, PE

ph: 650 652 9870 x 21  
fx: 650 652 9896

**SURVEYOR**  
Cnapell Surveying Services  
1185 Balsa Road  
Gilroy, CA 95020  
Attn: Mr. Brett Cnapell  
ph: 408 846 5373  
fx: 408 846 5373

**ARCHITECT**  
Studio S Squared Architecture  
823 Riverside Drive  
San Jose, CA 95125  
Attn: Eugene H. Sakai, AIA

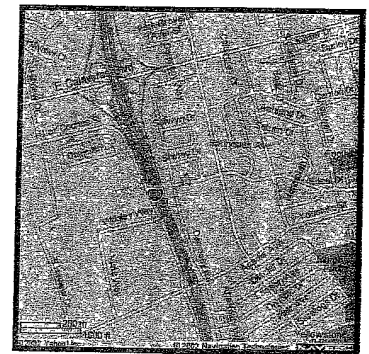
ph: 408 998 0983  
fx: 408 998 0982

**LANDSCAPE ARCHITECT**  
Greg Ing and Associates  
Landscape Architecture  
1385 The Alameda, Ste. 201  
San Jose, CA 95126  
Attn: Greg Ing

ph: 408 947 7090  
fx: 408 947 7099

## SHEET INDEX

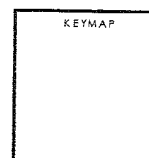
1	COVER SHEET
2	PLAT OF SURVEY
3	GENERAL DEVELOPMENT PLAN
4a	SCHEMATIC GRADING PLAN
4b	SCHEMATIC UTILITY PLAN
5	LANDSCAPE PLAN
6a	FIRST FLOOR PLAN
6b	SECOND FLOOR PLAN
6c	ROOF PLAN
6d	BUILDING ELEVATIONS



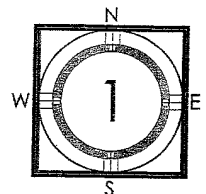
AREA MAP



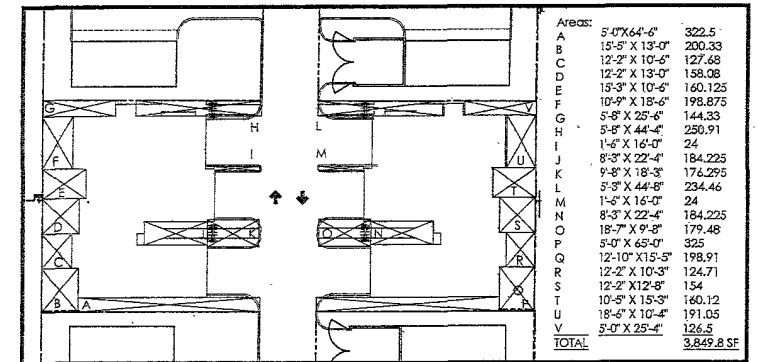
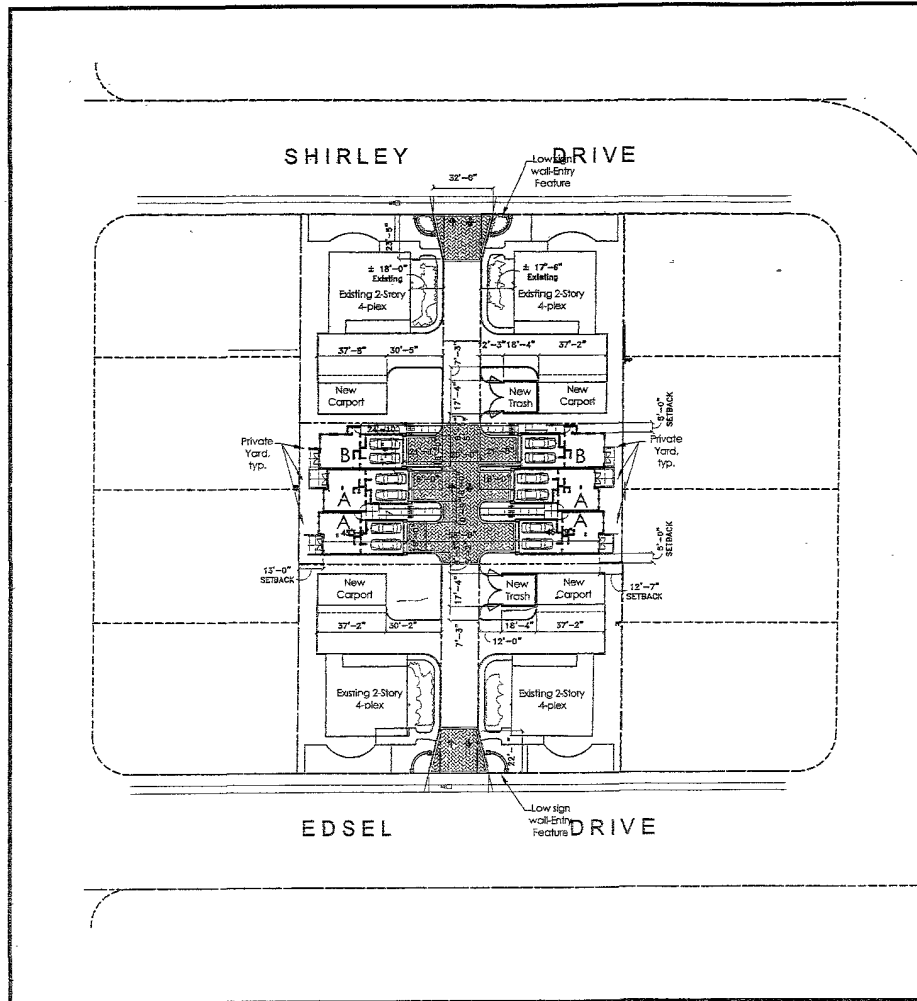
EDSEL COURT APARTMENTS
1143 EDSEL DRIVE
MILPITAS, CA
EDSEL COURT APARTMENTS, LLC



COVER SHEET
CITY OF MILPITAS S-ZONE APPLICATION
SCALE: NONE
SEPTEMBER 30, 2002 (REVISION 1)







- GENERAL NOTES:**
- 1) The site is virtually flat and variation in landscape finish grade does not exceed five (5) feet.
  - 2) Trash will be stored in individual unit's garbage cans.
  - 3) Access easements will be provided to the existing footpaths. Landscaping and parking easements will be provided to the site from the existing footpaths.
  - 4) Access of both site driveways will be two way. Access through the parking court will be one way only.

<b>A) LIST OF BUILDING TYPE:</b>		Unit type "A": 2 br, 2.5 ba, 1100 s.f. (2 total)
		Unit type "B": 3 br, 2.5 ba, 1300 s.f. (4 total)
<b>B) TOTAL GROUND FLOOR AREA FOR EACH BUILDING TYPE:</b>		Unit type "A": 2 x 880 s.f. = 1760 s.f. (including garage)
		Unit type "B": 4 x 936 s.f. = 3744 s.f. (including garage)
<b>C) TOTAL NUMBER OF STORIES ABOVE GRADE LEVEL:</b>		2
<b>D) TOTAL SQUARE FOOTAGE FOR EACH BUILDING TYPE:</b>		Unit type "A": 2 x 1100 s.f. = 2200 s.f. (not including garage)
		Unit type "B": 4 x 1300 s.f. = 5200 s.f. (not including garage)
<b>E) TOTAL GROUND FLOOR AREA:</b>		580 s.f.
<b>F) TOTAL FLOOR AREA, ALL BUILDINGS:</b>		7400 s.f. (not including garage)
<b>G) TOTAL SITE AREA (GROSS):</b>		17,364 s.f. (.398 ac)
<b>H) TOTAL SITE AREA (NET):</b>		14,751 s.f. (.339 ac)
<b>I) TOTAL PARKING PROVIDED:</b>		12 covered, 2 guest (14 total)
<b>J) TOTAL AREA DEVOTED TO PARKING:</b>		2430 s.f.
<b>K) GROSS PARKING AREA PER CAR SPACE:</b>		173.6 s.f.
<b>L) SITE AREA PERCENTAGES:</b>		
1) STRUCTURES:		32%
2) OPEN GREEN SPACE:		22%
3) PARKING (NOT INCLUDING UNIT GARAGES):		2%
4) STREETS:		44%
<b>M) ANTICIPATED POPULATION:</b>		
"A" UNITS:		3 per unit (2 adults, 1 child) = 6 total
"B" UNITS:		4 per unit (2 adults, 2 children) = 16 total
<b>TOTAL:</b>		22 total
<b>POPULATION DENSITY (GROSS):</b>		55/acre
<b>POPULATION DENSITY (NET):</b>		65/acre
<b>DWELLING DENSITY (GROSS):</b>		15 du/acre
<b>DWELLING DENSITY (NET):</b>		18 du/acre

## DATA TABLE



**EDSEL COURT APARTMENTS**  
 1143 EDESEL DRIVE  
 MILPITAS, CA  
 EDSEL COURT APARTMENTS, LLC

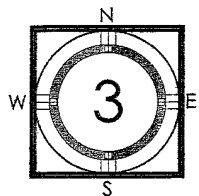
KEY MAP

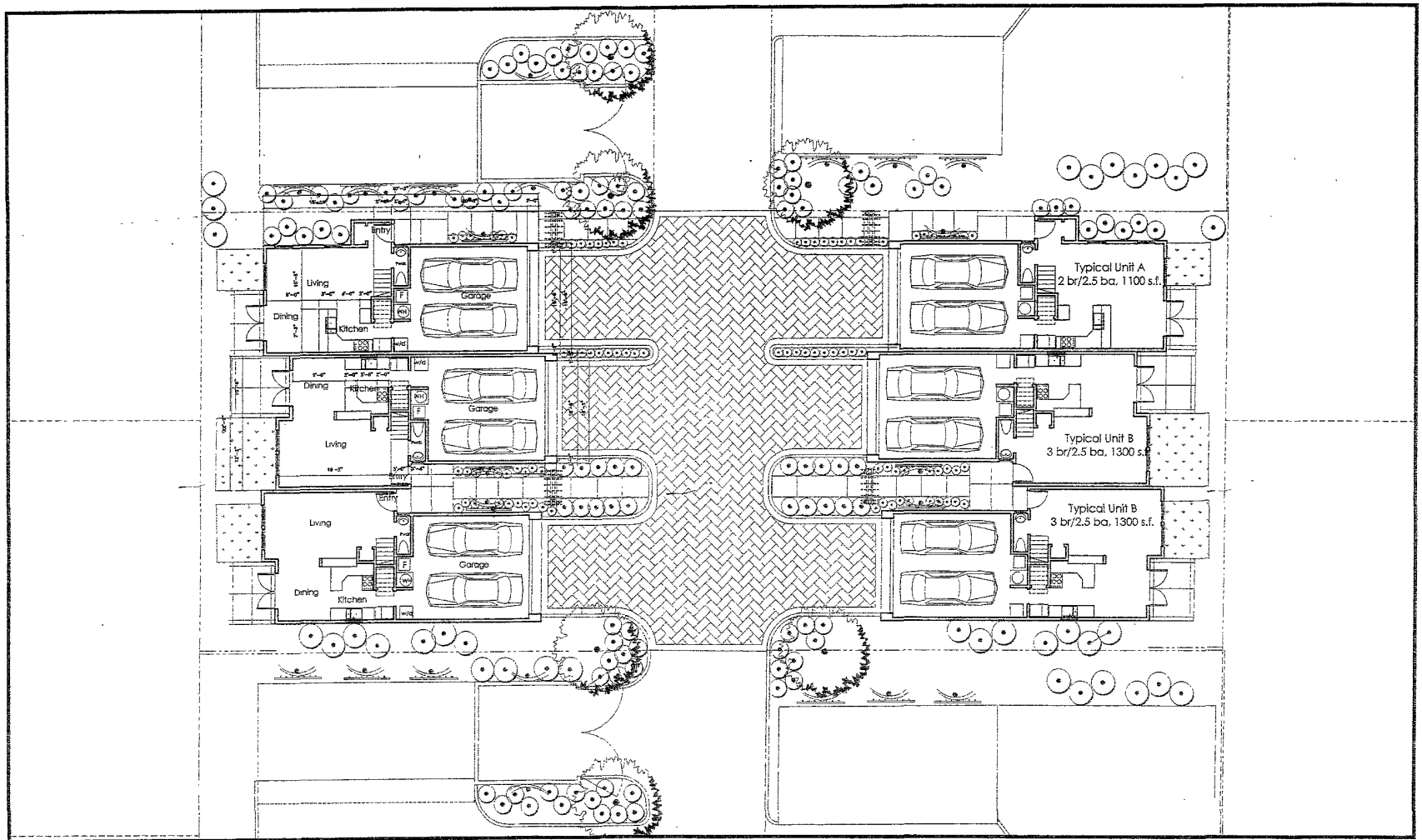
## GENERAL DEVELOPMENT PLAN

CITY OF MILPITAS S-ZONE APPLICATION

SCALE: 1" = 30'

SEPTEMBER 30, 2002 (REVISION 1)

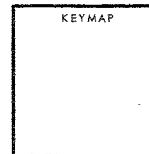




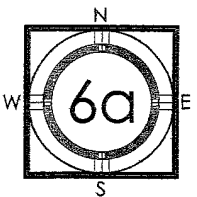
FIRST FLOOR PLAN

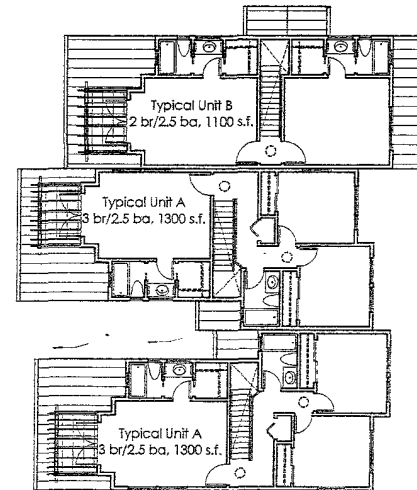
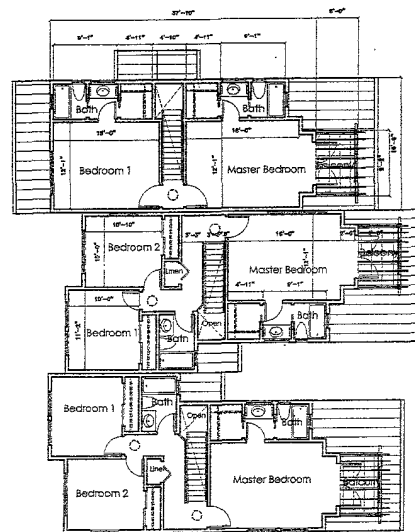


EDSEL COURT APARTMENTS
1143 EDSSEL DRIVE
MILPITAS, CA
EDSEL COURT APARTMENTS, LLC



FIRST FLOOR PLAN
CITY OF MILPITAS S-ZONE APPLICATION
SCALE: 1/8" = 1'-0"
SEPTEMBER 30, 2002 (REVISION 1)

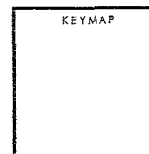




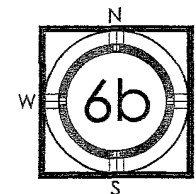
# SECOND FLOOR PLAN

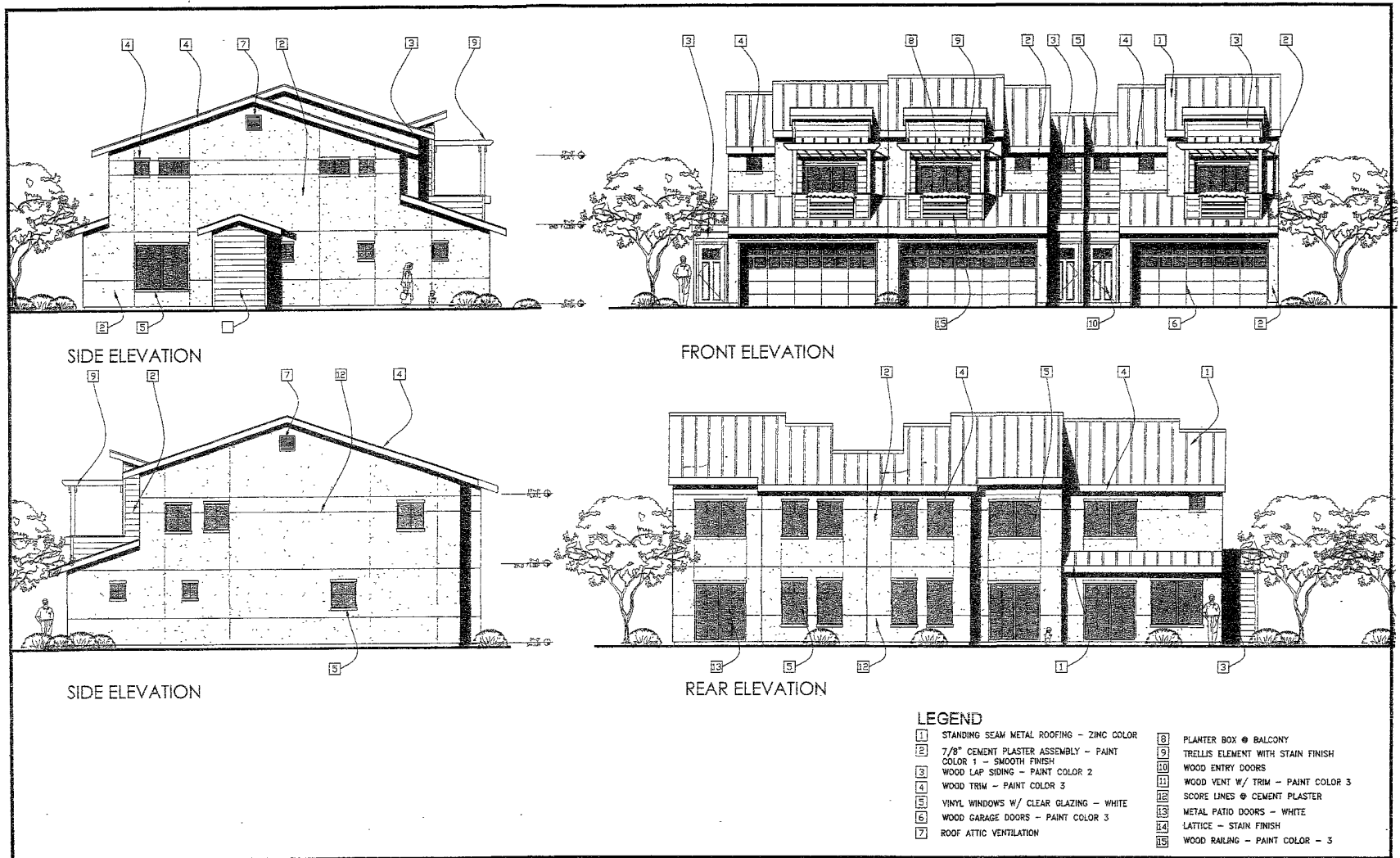


EDSEL COURT APARTMENTS
1143 EDSSEL DRIVE
MILPITAS, CA
EDSEL COURT APARTMENTS, LLC



SECOND FLOOR PLAN
CITY OF MILPITAS S-ZONE APPLICATION
SCALE: 1/8" = 1'-0"
SEPTEMBER 30, 2002 (REVISION 1)





## BUILDING ELEVATIONS



EDSEL COURT APARTMENTS  
1143 EDSEL DRIVE  
MILPITAS, CA  
EDSEL COURT APARTMENTS, LLC

KEYMAP

### BUILDING ELEVATIONS

CITY OF MILPITAS - ZONE APPLICATION

SCALE : 3/16" = 1'-0"

JUNE 3, 2002

